

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 9

In the Matter of

UNIVERSAL UNIFORMS, INC.

Employer

and

Case 9-RC-17242

NATIONAL CONFERENCE OF FIREMEN
& OILERS, LOCAL 320, SEIU

Petitioner

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, herein called the Act, a hearing was held before a hearing officer of the National Labor Relations Board, herein called the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding, the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction.
3. The labor organization involved claims to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The Employer, a corporation, is engaged in the rental of uniforms and textiles to commercial customers and also provides garment finishing services at its two plants located at 1721 South Seventh Street, Louisville, Kentucky, herein referred to as the industrial plant and

the denim plant, respectively. The Employer employs approximately six employees in the unit found appropriate. There is no history of collective bargaining affecting any of the employees involved in this proceeding.

The Petitioner seeks to represent a unit comprised of all maintenance employees employed by the Employer at its 1721 South Seventh Street, Louisville, Kentucky facilities, excluding all production employees, drivers, janitorial employees, office clerical employees, and all professional employees, guards, and supervisors as defined in the Act. The Employer agrees that the unit sought by the Petitioner is appropriate for purposes of collective bargaining. However, the parties disagree on the unit placement of Team Leader John Harrison, whom the Employer, contrary to the Petitioner, would exclude from the unit on the ground that he is a supervisor within the meaning of Section 2(11) of the Act. The parties agree, and the record reflects, that this is the only issue in dispute.

The Employer performs two distinct operations in its industrial and denim plants. The Employer's industrial plant houses its industrial division where it launders uniforms that it rents to commercial customers. The Employer also launders in its industrial plant other items that it rents to businesses, including mats, mops and shop towels. The Employer's denim plant houses its garment finishing division. In this operation the Employer stone washes and chemically treats garments and other types of home furnishings for manufacturers. The two plants are separated by approximately 100 yards with a parking lot between them. The denim plant consists of two connected buildings, the wash plant, and the folding building. The wash plant contains 24 industrial washers and 11 combination industrial dryers. The Employer also has 11 industrial washers and 4 combination industrial dryers in its industrial plant. On the same piece of property, the Employer shares 14,000 square feet of a warehouse with one or more other business entities.

There are approximately 160 employees who work in the two plants, about 102 employees assigned to the industrial plant and about 55 to 60 are employed in the garment finishing division. Of the approximately 102 industrial division employees, about 27 are employed in the Employer's service department, comprising the Employer's transportation operation which services its industrial division customers. An additional 47 to 50 employees work in the industrial plant as well as approximately 13 supervisors and managers. Of the 55 to 60 garment finishing division employees, there are about 10 supervisors or managers.

William Tate is the Employer's owner, president and chief executive officer. Executive Vice-President and Chief Operating Officer Tom Austin reports to Tate. Reporting to Austin are: Larry Mutter, assistant vice-president in charge of maintenance and engineering; Paul Watson, director of customer relations; David Tatman, vice-president of sales and marketing; Jim Whitmer, industrial plant manager; Donald Porter, general manager of the garment finishing division; and Eric Phillips, service manager. Tom Sparks is the plant manager over the garment finishing division and he reports to Porter.

Mutter has direct responsibility over the Employer's maintenance department. In this capacity he oversees maintenance projects and problems that arise in both the industrial and denim plants. Excluding Mutter, there are four maintenance employees who work primarily in

the denim plant and three maintenance employees primarily assigned to the industrial plant. The Employer utilizes maintenance team leaders in both plants. Harrison is the team leader in the denim plant and Fred Ash is the team leader in the industrial plant. Rick Wales, Jim Jones, and Wayne Elker are the other maintenance employees employed in the denim plant and Ed Sanders and Steve Pendygraft are the other maintenance employees assigned to the industrial plant

The Employer currently operates a first-shift and a third-shift in its denim plant and operates on a three-shift 24-hour basis when production needs dictate. Under the current schedule, Harrison reports to work at 6:30 a.m., Monday through Friday, and he normally works an 8-hour shift. On Monday mornings Harrison uses a master key to open the denim plant. He also possesses a code which he uses to shut off the Employer's alarm system. However, several other employees, including maintenance employees Jones, Sanders, and Pendygraft, also have keys and alarm codes for the purpose of opening or closing the Employer's plants. The record does not reflect whether the keys they possess provide the same access as the master key held by Harrison. Elker's shift begins at 7 a.m. and Jones reports to work at 8 a.m. Wales works the night shift from 10:30 p.m. to 6:30 a.m. In the industrial plant, Ash is scheduled from 8 a.m. to 4:30 p.m., Pendygraft is scheduled from 5 a.m. to 1:30 p.m., and Sanders is scheduled from 12:30 p.m. to 9 p.m. Mutter begins his workday at 8:30 a.m. and his quitting time varies depending on the work that needs to be performed.

In addition to the industrial washers and dryers in each plant, there is a wide array of equipment that must be maintained on a daily basis. For example, in the denim plant, there are six wet lint collectors, two industrial water heaters, a steam generator, a primary air compressor and a back up air compressor, three fork trucks, and one heavy duty fork truck. Other equipment that must be maintained in the industrial plant includes an industrial water heater, conveyors, an automated sorting system, lint collectors, a steam tunnel, and several presses. In general, each machine is assigned to a particular maintenance employee who is responsible for the performance of daily preventive maintenance and repair on assigned machines. In this connection, Harrison is assigned preventive maintenance for washers number 1 through 8; washers 9 through 17 are assigned to Elker; and the remaining washers are assigned to Jones. Mutter is assigned to the denim plant lint collectors, boiler room, and filtering systems. He does not have any preventive maintenance duties in the industrial plant. The maintenance employees, except for the assigned preventive maintenance, receive their daily work assignments in several different ways.

Mutter has an office in the denim plant that Harrison uses in some instances to perform certain paperwork duties. Mutter is in his office no more than 2 hours each work day and is often in the office for less time. Much of the remainder of his work time is spent coordinating major maintenance and engineering projects and in performing a variety of hands on maintenance tasks. In regard to maintenance assignments in the denim plant, Mutter compiles a list of maintenance tasks that he acquires from several sources. Mutter then provides Harrison with the list. A major source for these tasks are the E-mail and voice mail messages that Mutter receives on a daily basis from various of the Employer's managers. About 10 percent of the time when there is a corrective maintenance assignment to be made, Mutter will direct specific

maintenance employees to immediately remedy any high priority problems. The remaining 90 percent of the time a corrective maintenance problem in the denim plant flows through Mutter; he hands a list of assigned items to Harrison for distribution among the denim plant maintenance crew. In some instances Mutter will tell Harrison which maintenance employee to assign to a particular job. With regard to corrective tasks to be performed in the industrial plant, Mutter merely leaves a voice mail message for Ash, specifying maintenance problems that need to be addressed. Mutter also maintains a project list in his office that may be added to by any of the maintenance employees without prior approval. Mutter assigns specific maintenance employees to perform some of the tasks listed thereon. Harrison may advise employees when parts are in for specified projects and that such tasks are ready to be performed or that Mutter has indicated he wants a particular project or projects to be performed that day. The extent to which Harrison actually assigns a particular maintenance employee to perform a particular project is unclear.

The maintenance crew in the denim plant also receives corrective maintenance assignments directly from managerial and supervisory personnel as problems arise. In this regard, the record reflects that Plant Manager Sparks "walks the floor" on a daily basis and that he may direct any maintenance employee to correct maintenance related problems that he encounters. Mutter and Harrison may also correct, or direct another maintenance employee to correct, maintenance problems that arise during the course of a shift. However, it appears that in most instances when a maintenance problem requiring immediate attention arises during a shift, Elker or Jones will respond to the problem. Thus, the record discloses that Elker and Jones have been pre-assigned on an alternating daily basis to handle problems with machines as they arise. Finally, the denim plant maintenance crew may also receive daily maintenance assignments from Sparks in the mornings. In this connection, Sparks receives an alarm list each morning that indicates problems that occurred with the Employer's washing machines during the night shift. If the alarm list shows a recurring problem, Sparks hands the list to Harrison or Jones with instructions that maintenance employees investigate and take any corrective action needed.

The record reflects that on the occasions that Harrison assigns an employee to perform a particular maintenance task, several factors are routinely used to effectuate the assignment. When a problem arises with a machine, the maintenance employee who is assigned to preventive maintenance for that machine will typically make the corrective repair. Additionally, each of the employees in the maintenance department possesses a particularized skill that often makes assignment of a maintenance job a matter of matching the particular problem to an employee's particular skill. In this connection, I note that Mutter is responsible for hiring employees for positions in the maintenance department and that he has used this authority to hire employees with a diverse range of skills. Thus, in the denim plant Jones is best qualified to perform electrical tasks, Elker to perform mechanical tasks, Wales to perform air conditioning and control tasks, and Harrison to perform welding tasks. Harrison is also a skilled mechanic. In instances where it is not possible to assign an employee to a task based on familiarity through preventive maintenance responsibilities or by virtue of particularized skill, Harrison merely directs the most available employee to perform the job. Finally, Harrison uses "common sense" to place more than one employee on a particular task when the job requires it. The record reflects that maintenance employees may occasionally work in the plant other than the one to which they are regularly assigned. Mutter or other managerial personnel instigate these temporary assignments. There is no evidence that Harrison or Ash make such assignments.

Maintenance employees receive the same hourly rate regardless of the task that they are performing. Harrison currently earns \$10.23 an hour. There is some contradiction in the record as to whether Harrison received a pay increase as a result of his promotion to team leader in about October 1997. Regardless, the increase was minimal, slightly over 1 percent from \$9.87 to \$10 an hour. A majority of the employees in the maintenance department were earning \$9.87 an hour at that time. Mutter and Ash are paid on a salaried basis.

Harrison spends as much as 90 percent of his work time in the performance of hands on maintenance tasks. The remaining 10 percent of his work time is spent completing paperwork and ordering supplies. The paperwork performed by Harrison involves filling out purchase orders and, on Monday mornings, totaling up the hours on the time cards for himself and the other three maintenance employees who work in the denim plant. Harrison leaves the time cards on Mutter's desk after he has totaled them and Mutter then reviews the cards for accuracy before signing and submitting them for payment. Harrison also corrects the time cards for the denim plant maintenance employees as needed. For example, if an employee was unable to gain access to the time clock to punch in timely, Harrison may change the employee's time card to reflect the time that the employee actually arrived at work. There is no evidence that Harrison evaluates and accepts or rejects attendance excuses of a more subjective nature.

With regard to Harrison's role in ordering parts, the record reflects that his authority to pledge the Employer's credit without prior clearance from a manager or a supervisor is limited to roughly \$200. This amount may apparently be exceeded under certain circumstances such as when a part or parts is routinely ordered and the cost of those parts marginally exceeds the \$200 limit. Harrison typically orders parts off a board in the maintenance shop on which all of the maintenance employees write down parts that are needed. When ordering parts, Harrison either deals with vendors with whom the Employer has set up pre-established lines of credit or he may deal on a credit basis with a vendor of his own choosing. Mutter reviews all purchase orders completed by Harrison and signs off on each purchase order as the "buyer." Harrison does not sign the purchase orders. General Manager Porter later initials the purchase orders to approve payment to the vendor. In considering Harrison's authority to pledge the Employer's credit, I note that he was involved in completing purchase orders for an unspecified period of time before he was made a team leader. Although not clear from the record, it appears that parts are currently purchased and purchase orders are sometimes completed by other maintenance employees.

In addition to pledging the Employer's credit for parts and tool purchases, I note that Harrison may also pledge the Employer's credit for services. Thus, if the maintenance employees are unable to perform a particular task, Harrison may contact an outside contractor to perform the work. One such example was his contact with a contractor to repair an overhead door at the Employer's denim plant. When an outside contractor is utilized, Harrison must again complete a purchase order. It appears that his authority to pledge the Employer's credit for services is circumscribed by the inability of maintenance employees to perform the work and by a dollar limit that may be exceeded somewhat in the case of recurring problems.

The record discloses that maintenance employees occasionally work overtime. In this regard, the record reflects that somewhat less than 4 hours of overtime a week is worked by the maintenance department in its entirety. Overtime work in the maintenance department typically occurs when an employee needs to work past the end of his shift to complete a particular task or when the production employees are scheduled to work Saturday overtime. It appears that it may also occur when a machine is down and is more easily repaired during non-production hours. Harrison's shift ends before the other maintenance employees complete their shift and he has not been involved in the authorization of daily overtime for other employees in the maintenance department. The Employer's "team leaders" have varying degrees of authority, and the extent to which Harrison may approve another maintenance employee working past the end of his shift is uncertain. However, on occasion Harrison has worked overtime for a short period, possibly as much as an hour or two, without prior authorization to complete a project or repair that is in progress at the end of his scheduled shift. A shift supervisor, not Harrison, initiates action if a maintenance emergency requires that a maintenance employee or employees be called into work.

On some occasions, when Mutter has been unavailable, Harrison and other members of the denim plant maintenance crew have worked Saturday overtime without prior approval in conjunction with an overtime production shift. In instances when fewer than three maintenance employees are required to perform the Saturday overtime and Mutter is unavailable, Harrison, Jones, and Elker discuss and agree on which of them will perform the Saturday overtime work. The last such occasion occurred 8 months prior to the instant proceeding. According to Harrison, he and the other maintenance employees have never failed to come to an agreement on who would work the Saturday overtime. Harrison states that if there were disagreement, they would abide by seniority or he would contact Mutter to have him resolve the issue. In some instances the Employer's upper management directs that overtime hours should be worked on a limited basis. On these occasions, the ability of team leaders to work overtime hours or to permit other employees to work overtime hours without prior approval is circumscribed. Mutter is responsible for major projects in maintenance and has the sole authority within the maintenance department to authorize overtime hours for such projects

ANALYSIS:

Section 2(11) of the Act defines a supervisor as a person:

. . . having authority in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively recommend such action, if in connection with the foregoing, the exercise of such authority is not merely of a routine or clerical nature, but requires the use of independent judgment. . . .

It must be noted, however, that in enacting Section 2(11) of the Act, Congress emphasized its intention that only supervisory personnel vested with "genuine management prerogatives" should be considered supervisors, and not "straw bosses, leadmen, set-up men and other minor supervisory employees." *Chicago Metallic Corp.*, 273 NLRB 1677, 1688 (1985). Although the

possession of any one of the indicia specified in Section 2(11) of the Act is sufficient to confer supervisory status, such authority must be exercised with independent judgment and not in a routine manner. *Hydro Conduit Corp.*, 254 NLRB 433, 437 (1981). Moreover, the exercise of "supervisory authority" in merely a routine, clerical, perfunctory or sporadic manner does not confer supervisory status. *Feralloy West Corp. and Pohng Steel America*, 277 NLRB 1083, 1084 (1985); *Chicago Metallic Corp.*, supra; *Advanced Mining Group*, 260 NLRB 486, 507 (1982). It is also well established that the burden of proving that an individual is a supervisor rests on the party asserting supervisory status. See, *Beverly Enterprises-Ohio d/b/a Northcrest Nursing Home*, 313 NLRB 491 (1993); *Ohio Masonic Home*, 295 NLRB 390, 393 (1989). "Accordingly, whenever the evidence is in conflict or otherwise inconclusive on particular indicia of supervisory authority, [the Board] will find that supervisory status has not been established at least on the basis of those indicia." *Phelps Community Medical Center*, 295 NLRB 486, 490 (1989). Based on a careful review of the record and of the parties' briefs, I find that the Employer here has not met its burden in establishing that Harrison is a supervisor within the meaning of Section 2(11) of the Act. To the contrary, the record evidence affirmatively discloses that Harrison does not possess any indicia of supervisory authority within the meaning of Section 2(11) of the Act. Thus, Harrison does not have the authority to hire, transfer, suspend, lay off, recall, promote, discharge, reward, discipline, responsibly to direct the work of employees or to adjust their grievances, in a manner requiring the exercise of independent judgment.

The Employer contends that Harrison is a statutory supervisor based on his assignment of work, including overtime, his limited ability to pledge the Employer's credit for goods and services, and because he reviews and corrects time cards. Finally, the Employer asserts that Harrison received a formal grant of supervisory authority in its employee handbook. I disagree with the Employer's position vis-a-vis Harrison's supervisory status, and I specifically discount the limited, circumscribed, and routine nature of Harrison's exercise of the authority set forth in Section 2(11) of the Act.

With regard to the purported formal grant of supervisory authority, the Employer asserts at the hearing and in its brief that it is the existence of supervisory authority and not the exercise of it that determines whether an individual is properly classified as a statutory supervisor. The Employer's interpretation of the settled law in this area is accurate. See, *Cox Enterprises, Inc. d/b/a Atlanta Newspapers*, 263 NLRB 632, 633 (1982); *Hook Drugs, Inc.*, 191 NLRB 189, 191 (1971). However, the record does not support the Employer's argument because there is no evidence of a formal grant of supervisory authority to Harrison. Thus, the authority purportedly granted to team leaders in the employee handbook is largely reportorial in nature and does not imbue all of the Employer's "team leaders" with the statutory authority to engage in supervisory acts. Indeed, the record discloses that the Employer uses the term "team leader" in a generic sense to refer to all of its putative supervisors and managers and not just those individuals who possess only the title of team leader. The Employer concedes that the duties performed, and the authority exercised, by "team leaders" varies from one position to another. Moreover, the Employer's employee handbook is a fluid document subject to change without notice and the policies contained therein "may be applied differently depending upon the circumstances and within the discretion of management." I do not believe that the Employer may reasonably rely

on a document that it describes as providing only "general guidelines" as one which purportedly contains formal grants of authority.

In brief, the Employer appears to concede, as it must, that an individual's title is not determinative of status. See, *St. Alphonses Hospital*, 261 NLRB 620, 626, fn. 14 (1982); *The Washington Post Company*, 254 NLRB 168, 171, fn. 22 (1981). However, the Employer, relying on the Board's decision in *Paintsville Hospital Company, Inc.*, 278 NLRB 724 (1986), maintains that where there is an actual grant of supervisory authority in an employee handbook that such establishes an individual's supervisory status. Even assuming that there is a formal grant of authority contained in its employee handbook, the *Paintsville Hospital* case is not supportive of the Employer's assertion. In this connection, I note that the Employer in its brief quoted the findings of the administrative law judge in *Paintsville Hospital* dealing with supervisory authority contained in a personnel manual. The quote excerpted by the Employer ends, "The foregoing [referring to authority set forth in the manual as well as other factors] is, without more, sufficient to establish that five department heads are statutory supervisors . . ." *Id.* at 740. However, the sentence in *Paintsville*, cut off by the Employer, concludes, ". . . and there is additional evidence to add support to this conclusion." *Id.* The additional evidence referred to by the administrative law judge in *Paintsville* includes evidence that at least some of the department heads in dispute issued discipline, hired employees, and selected employees for lay off. Moreover, the grant of authority to department heads in *Paintsville Hospital*, involving the express authority to adjust employee grievances and to grant or deny employee leave, is easily distinguishable from the reportorial functions allegedly granted to Harrison. Finally, I note that the Board in *Paintsville* did not disturb or even directly address the administrative law judge's findings and rationale regarding the supervisory status of the department heads. *Id.* at 724-727. In sum, I conclude that the Employer's employee handbook does not serve to imbue Harrison with supervisory status.

Although Harrison does in some instances assign tasks and overtime, his discretion in these areas is severely circumscribed and does not equate to the exercise of independent judgment. As explicated above, there are three types of maintenance work that is performed by the Employer's maintenance employees: preventive, emergency or corrective, and project work. Harrison does not have any involvement in the assignment of preventive maintenance. He is involved in assigning corrective work as well as project work. However, it is not clear from the record the extent to which Harrison makes an actual assignment of project work or merely indicates which projects are ready or need to be performed. His discretion is largely deleted from the assignment process because each of the denim plant maintenance employees is proficient in a different primary skill, electrical, welding, mechanical, and air conditioning, and they are assigned to address problems that require their particular skill. If the problem is of a more routine nature, employees are assigned to perform the tasks based on whether it involves "their machine." These are the machines to which they are assigned for preventive maintenance. Additionally, if there are no maintenance employees available to be assigned on the basis of skills or familiarity, Harrison merely assigns the employee who is most available. Further, if a job requires more than one employee, Harrison uses his "common sense" to make that assignment. Finally, I note that the record evidence alludes to the fact that many of the required repairs are of a recurring nature. Thus, the assignment of employees to correct these problems appears in most instances to be quite routine in nature and does not require the exercise of independent judgment even

absent the presence of the criteria followed by Harrison in making assignments. In sum, I conclude that Harrison does not use independent judgment in assigning work, but rather that any such assignments are routine in nature.

The Employer relies on the Board's decision in *Dadco Fashions, Inc.*, 243 NLRB 1193 (1979), in support of its contention that Harrison exercises independent judgment when he assigns work. I find, however, that the facts in *Dadco* are dissimilar to those in the subject case and consequently that *Dadco* is distinguishable. In contrast to Harrison, the supervisors at issue in *Dadco* performed little or no production work. *Id.* at 1193, 1197. Additionally, they engaged in training of employees and directed every aspect of their work down to the cuts of shirts and colors on which to work. In the subject case there is no evidence that Harrison trains the other maintenance employees or that he is involved in any respect with directing the work of other maintenance employees once the assignment has been made. Significantly, there is no evidence that he even checks the work after a job has been performed. Similarly, the Employer urges that *Dresser Industries v. NLRB*, 107 LRRM 3222 (4th Cir. 1981), provides factual parallels supportive of a conclusion that Harrison exercises independent judgment when he assigns work. I find that *Dresser* is not factually on point. In this regard, the details of the authority of the supervisor contested in *Dresser* are more fully explicated in the underlying Board case. *Dresser Industries, Inc.*, 248 NLRB 33, 58-61 (1980). Thus, among other supervisory indicia, the administrative law judge in *Dresser* concluded that the supervisor in question had disciplined employees by warning them and by sending them home, trained employees, and that he had granted employees leave of his own accord. Additionally, the rate of pay of the disputed supervisor was substantially higher than the 12 or 13 employees he was found to have supervised and he spent only about 25 percent of his time performing hands-on production work. *Id.* at 58-61. These factors lie in stark contrast to the limited authority possessed and exercised by Harrison to assign work. Indeed, the supervisor in *Dresser* not only assigned work to employees but was additionally responsible for ensuring the quality of the work and of reporting deficiencies to management. *Id.* Finally, there is no evidence that the assignments exercised by the supervisor in *Dresser* or the supervisors in *Dadco* were circumscribed by preordained criteria as the subject case.

With regard to the assignment of overtime, the record once again establishes that Harrison's authority is severely limited. Thus, he can work a small amount of overtime himself to complete a job on which he is working at the end of his shift. However, as Executive Vice-President and Chief Operating Officer Austin testified, Harrison cannot authorize more than an hour or two of overtime to complete a job in progress. In practice, Harrison does not authorize daily overtime for other employees because his shift ends before that of the other day shift maintenance employees. Shift supervisors, not Harrison, apparently authorize any overtime for these maintenance employees. Moreover, Austin has further circumscribed overtime assignments that Harrison might make by passing the word through his department heads, including Mutter, that overtime hours are to be limited. As noted previously, Harrison and other maintenance employees in the denim plant may also work Saturday overtime hours without prior authorization from Mutter. However, this occurs sporadically and the three day shift maintenance employees in the denim plant discuss and agree among themselves who will work the overtime. In sum, I conclude that to the extent Harrison is authorized to make overtime

assignments, such authority is limited and of a routine nature such that the exercise of independent judgment is not required.

With regard to Harrison's involvement in correcting and reviewing time cards, the Employer implies in its brief that this function vests him with the authority to indirectly discipline and reward employees because his actions might affect an employee's entitlement to attendance bonuses or whether an employee is subject to discipline pursuant to its attendance policy. I note, however, that Harrison merely corrects time cards to accurately reflect hours worked and that he lacks discretion to award time to employees that they did not actually work. Accordingly, I conclude that Harrison's involvement in correcting and totaling time cards is merely a reportorial function not involving the responsible direction of employees with the use of independent judgment. In this connection, I note that it is well settled that the mere exercise of a reporting function that does not automatically lead to further discipline or adverse action against an employee does not establish supervisory authority. See, *Lincoln Park Nursing and Convalescent Center*, 318 NLRB 1160, 1162 (1995); *Lakeview Health Center*, 308 NLRB 75, 78-79 (1992). The cases relied on by the Employer in its brief do not suggest a contrary result. Rather, the cited cases merely reference the monitoring or keeping of time cards as a factor supportive of a supervisory finding in conjunction with a number of other well established supervisory criteria.

Finally, I find that Harrison's limited authority to pledge the Employer's credit for goods and services does not imbue him with supervisory authority. In this connection, I note that he typically orders parts off a list compiled by all of the employees in the maintenance department and that he apparently also orders small parts that are routinely needed to repair the Employer's machines. Thus, the ordering of parts and contacting vendors for the performance of services is severely limited as to dollar amount as well as to established situations where parts and services are clearly needed. Moreover, two levels of acknowledged supervision review and approve the purchase orders that Harrison completes for goods and services. I therefore conclude that Harrison's function in this regard is of a clerical nature and does not involve the exercise of independent judgment. I am unaware of any case, and none were cited to by the Employer, in which an employee was found to be a supervisor as a result of such limited and circumscribed authority to pledge the Employer's credit.

Based on the foregoing, the entire record and careful consideration of the arguments of the parties at hearing and in their briefs, I find that John Harrison is not a supervisor within the meaning of Section 2(11) of the Act. Harrison does not have the authority to hire, discharge or discipline employees or to direct their work in a manner requiring the use of independent judgment nor does he exercise any other indicia of supervisory authority within the meaning of Section 2(11) of the Act. *Sears, Roebuck & Co.*, 292 NLRB 753 (1989). Moreover, I note that if Harrison were a statutory supervisor, there would be two supervisors for four or five employees a totally unrealistic ratio of supervisors to employees. *Welch Farms Ice Cream, Inc.*, 161 NLRB 748, 751 (1966); *United States Gypsum Company*, 178 NLRB 85, 86 (1969). Accordingly, I shall include Harrison in the unit.

STIPULATED SUPERVISION:

In accord with the stipulation of the parties and the record evidence, I shall exclude William Tate, president and chief executive officer; Tom Austin, executive vice-president and chief operating officer; Larry Mutter, assistant vice-president of engineering and maintenance; and Fred Ash, team leader ^{1/}, from the unit as supervisors within the meaning of Section 2(11) of the Act.

Based on the foregoing, the record as a whole and careful consideration of the arguments of the parties at the hearing and in their briefs, I find that the following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining:

All maintenance employees employed by the Employer at its 1721 South Seventh Street, Louisville, Kentucky facilities, excluding all production employees, drivers, janitorial employees, office clerical employees and all professional employees, guards and supervisors as defined in the Act.

Accordingly, I shall direct an election among the employees in such unit.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by **National Conference of Firemen & Oilers, Local 320, SEIU**.

LIST OF ELIGIBLE VOTERS

In order to insure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have

^{1/} Although it may appear that the finding regarding the status of Harrison vis-à-vis Ash is inconsistent, the parties stipulated that Ash was a supervisor within the meaning of Section 2(11) of the Act and I have adopted their stipulation. Moreover, there is some evidence of differences between the employment conditions of Harrison and Ash. For example, Ash is salaried while Harrison is hourly paid and Harrison is primarily assigned to the same facility as the assistant vice-president of engineering and maintenance, Larry Mutter.

access to a list of voters using full names, not initials, and their addresses which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969); *North Macon Health Care Facility*, 315 NLRB No. 359 (1994). Accordingly, it is hereby directed that within 7 days of the date of this Decision 2 copies of an election eligibility list, containing the full names and addresses of all the eligible voters, shall be filed by the Employer with the undersigned who shall make the list available to all parties to the election. In order to be timely filed, such list must be received in Region 9, National Labor Relations Board, 3003 John Weld Peck Federal Building, 550 Main Street, Cincinnati, Ohio 45202-3271, on or before **May 12, 1999**. No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 - 14th Street, N.W., Washington, D.C. 20570. This request must be received by the Board in Washington by **May 19, 1999**.

Dated at Cincinnati, Ohio this 5th day of May 1999.

/s/ Richard L. Ahearn

Richard L. Ahearn, Regional Director
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